

EDMUND G. BROWN JR., Attorney General  
of the State of California  
CHRIS LEONG, State Bar No. 141079  
Deputy Attorney General  
300 South Spring Street, Suite 1702  
Los Angeles, California 90013  
Telephone: (213) 897-2575  
Facsimile: (213) 897-9395  
E-mail: chris.leong@doj.ca.gov

Attorneys for Complainant

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

EZEQUIEL A. MARZOCCHETTI,

Respondent.

Case No. 1D 2005 64366

OAH No. 2008040487

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

It is agreed by and between the parties to this action as follows:

**PARTIES**

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Board Physical Therapy Board of California who brought this action solely in his official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Chris Leong, Deputy Attorney General.

2. Respondent Ezequiel A. Marzocchetti (Respondent) is represented in this proceeding by attorney Robert D. Harding, Esq., whose address is 1430 Truxton Avenue, Suite 900, Bakersfield, CA 93301-5230.

3. On or about June 6, 2001, the Board issued Physical Therapist license No. PT 26241 to Respondent. The Physical Therapist license was in full force and effect at all times relevant to the charges brought in Accusation number 1D 2005 64366 and will expire on May 31,

2009, unless renewed.

### **JURISDICTION**

4. Accusation No. 1D 2005 64366 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 6, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1D 2005 64366 is attached as Exhibit A and is incorporated herein by reference.

### **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1D 2005 64366. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### **CULPABILITY**

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 1D 2005 64366.

9. Respondent agrees that his Physical Therapist license is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

///

1 **CONTINGENCY**

2 10. This stipulation shall be subject to approval by the Physical Therapy Board  
3 of California. Respondent understands and agrees that counsel for Complainant and the staff of  
4 the Physical Therapy Board of California may communicate directly with the Board regarding  
5 this stipulation and settlement, without notice to or participation by Respondent or his counsel.  
6 By signing the stipulation, Respondent understands and agrees that he may not withdraw his  
7 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon  
8 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement  
9 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be  
10 inadmissible in any legal action between the parties, and the Board shall not be disqualified from  
11 further action by having considered this matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated  
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties  
16 agree that the Board may, without further notice or formal proceeding, issue and enter the  
17 following Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 **IT IS HEREBY ORDERED** that Physical Therapist license No. PT 26241  
20 issued to Respondent Ezequiel A. Marzocchetti is revoked. However, the revocation is stayed  
21 and Respondent is placed on probation for four (4) years on the following terms and conditions.

22 1. **RESTRICTION OF PRACTICE - HOME CARE** The respondent shall  
23 not provide physical therapy services in a patient's home.

24 2. **RESTRICTION OF PRACTICE - PROHIBITION OF SELF**  
25 **EMPLOYMENT OR OWNERSHIP** Respondent shall not be the sole proprietor or partner in  
26 the ownership of any business that offers physical therapy services. Respondent shall not be a  
27 Board member or an officer or have a majority interest in any corporation that offers or provides  
28 physical therapy services.

1                   3.     RESTRICTION OF PRACTICE - MONITORING   Within thirty (30)  
2 days of the effective date of this decision, the respondent shall select a licensed physical therapist  
3 to serve as the professional practice monitor during the period of probation and submit the name  
4 of the licensed physical therapist selected to the Board for approval. The professional practice  
5 monitor shall be selected from an established pool of physical therapists licensed to practice in  
6 the State of California who are currently serving as trained expert consultants to the Board, or  
7 other physical therapist acceptable to the Board. After the professional practice monitor has been  
8 approved by the Board, the professional practice monitor in conference with the Board's  
9 probation monitor will establish the schedule upon which clinical visits will be made to  
10 respondent's place of employment to review respondent's current practice and respondent's  
11 adherence to the terms of probation. The professional practice monitor shall report to the  
12 Board's probation monitor on compliance with the terms and conditions of the respondent's  
13 probation after each clinical visit. The report shall indicate whether respondent's practices are  
14 within the standards of practice of physical therapy or billing, or both, and whether respondent is  
15 practicing physical therapy safely, billing appropriately or both.

16                   Should the professional practice monitor resign or no longer be available, and if  
17 Respondent fails to submit the name of a replacement practice monitor within 15 days, the Board  
18 shall appoint another physical therapist.

19                   Respondent shall pay all monitoring costs, including the cost of the professional  
20 practice monitor within a time frame agreed upon by the professional practice monitor but shall  
21 not exceed more than 15 days succeeding each clinical visit.

22                   Respondent shall make all patient records available for immediate inspection by  
23 the professional practice monitor at all times, or for copying on premises, and shall retain all  
24 records for the entire term of probation.

25                   Respondent shall make all appropriate records available for immediate inspection  
26 by the Board's probation monitor at all times, or for copying on premises, and shall retain all  
27 records for the entire term of probation.

28                   Failure to comply with any component of this condition as specified above is a

violation of probation.

4. RESTRICTION OF PRACTICE - NO EMPLOYMENT OR SUPERVISION OF PHYSICAL THERAPIST LICENSE APPLICANTS, PHYSICAL

THERAPIST ASSISTANT LICENSE APPLICANTS Respondent shall not supervise any physical therapist license applicants, or physical therapist assistant applicants during the entire period of probation. Respondent shall terminate any such supervisory relationship in existence on the effective date of this probation.

5. COMMUNITY SERVICES The respondent shall be required to provide 80 hours of community service without compensation within the State of California as part of the probation. The respondent shall submit for prior approval a community service program to the Board or its designee.

6. EDUCATION COURSE Within 30 days of the effective date of this Decision, respondent shall submit to the Board, or its designee, for prior approval, a physical therapy remedial educational program in ethics that shall not be less than 20 hours. Respondent shall supply documentation verifying satisfactory completion of course work. This will be signed by the instructor(s) of the courses and evidence, if applicable, of passing grades on exams/tests given by the instructor.

Failure to comply with any component of this condition as specified above is a violation of probation. Following the completion of each course, the Board or its designee may administer an examination to test respondent's competency or otherwise demonstrate competency of the subject.

7. PROBATION MONITORING COSTS Respondent shall reimburse all costs incurred by the Board for probation monitoring during the entire period of probation. Respondent will be billed at least quarterly. Such costs shall be made payable to the Physical Therapy Board of California. Failure to make ordered reimbursement within 60 days of the billing shall constitute a violation of the probation order.

8. COST RECOVERY The respondent is ordered to reimburse the Board the actual and reasonable investigative and prosecutorial costs incurred by the Board in the

1 amount of \$15,022.87. Said costs shall be reduced, however, and the remainder forgiven, if  
2 Respondent pays \$4,000.00 within 60 days of the effective date of the Decision. In the event  
3 Respondent fails to pay within sixty (60) days of this Decision, the full amount of costs shall be  
4 immediately due and payable. Failure to pay the ordered reimbursement, or any agreed upon  
5 payment, may constitute a violation of the probation order. The filing of bankruptcy by  
6 Respondent shall not relieve Respondent of his responsibility to reimburse the Board. If  
7 Respondent is in default of his responsibility to reimburse the Board, the Board will collect cost  
8 recovery from the Franchise Tax Board, the Internal Revenue Service or by any other means of  
9 attachment of earned wages legally available to the Board. Failure to fulfill the obligation could  
10 also result in attachment to the Department of Motor Vehicle registrations and/or license  
11 renewals.

12           9.     OBEY ALL LAWS Respondent shall obey all federal, state and local  
13 laws, and statutes and regulations governing the practice, inspections and reporting, of physical  
14 therapy in California and remain in full compliance with any court ordered criminal probation.

15           10.    COMPLIANCE WITH ORDERS OF A COURT The respondent shall be  
16 in compliance with any valid order of a court. Being found in contempt of any court order is a  
17 violation of probation.

18           11.    COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF  
19 RESTITUTION Respondent shall not violate any terms and conditions of criminal probation  
20 and shall be in compliance with any restitution ordered, payments or other orders.

21           12.    QUARTERLY REPORTS Respondent shall submit quarterly  
22 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
23 been compliance with all the conditions of probation.

24           13.    PROBATION MONITORING PROGRAM COMPLIANCE Respondent  
25 shall comply with the Board's probation monitoring program.

26           14.    INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent  
27 shall appear in person for interviews with the Board, or its designee, upon request at various  
28 intervals.

1                   15.    NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS The  
2 respondent shall notify all present or future employers of the reason for and the terms and  
3 conditions of the probation by providing a copy of the Initial Probationary License, Statement of  
4 Issues, Accusation and the Decision and Order, or Stipulated Settlement to the employer, and  
5 submit written employer confirmation of receipt to the Board within 10 days. The notification(s)  
6 shall include the name, address and phone number of the employer, and, if different, the name,  
7 address and phone number of the work location.

8                   16.    NOTIFICATION OF CHANGE OF NAME OR ADDRESS The  
9 respondent shall notify the Board, in writing, of any and all name and/or address changes within  
10 ten (10) days.

11                  17.    RESTRICTION OF PRACTICE - TEMPORARY SERVICES  
12 AGENCIES The respondent shall not work for a temporary services agency or registry.

13                  18.    RESTRICTION OF PRACTICE - CLINICAL INSTRUCTOR OF  
14 PHYSICAL THERAPY STUDENT INTERNS OR FOREIGN EDUCATED PHYSICAL  
15 THERAPIST LICENSE APPLICANTS PROHIBITED Respondent shall not supervise any  
16 physical therapy student interns or foreign educated physical therapist license applicants during  
17 the entire period of probation. Respondent shall terminate any such supervisory relationship in  
18 existence on the effective date of this probation.

19                  19.    PROHIBITED USE OF ALIASES Respondent may not use aliases and  
20 shall be prohibited from using any name which is not him legally-recognized name or based upon  
21 a legal change of name.

22                  20.    INTERMITTENT WORK If the respondent works less than 192 hours as  
23 a physical therapist or a physical therapist assistant in the physical therapy profession in a period  
24 of three months, those months shall not be counted toward satisfaction of the probationary  
25 period. The respondent shall notify the Board if he works less than 192 hours in a three-month  
26 period.

27                  21.    TOLLING OF PROBATION The period of probation shall run only  
28 during the time respondent is practicing or performing physical therapy within California. If,

1 during probation, respondent does not practice or perform within California, respondent is  
2 required to immediately notify the probation monitor in writing of the date that respondent is  
3 practicing or performing physical therapy out of state, and the date of return, if any. Practicing or  
4 performing physical therapy by the respondent in California prior to notification to the Board of  
5 the respondent's return will not be credited toward completion of probation. Any order for  
6 payment of cost recovery shall remain in effect whether or not probation is tolled.

7           22.     VIOLATION OF PROBATION If respondent violates probation in any  
8 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke  
9 probation and carry out the disciplinary order that was stayed. If an accusation or petition to  
10 revoke probation is filed against respondent during probation, the Board shall have continuing  
11 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
12 is final.

13           23.     REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT,  
14 HEALTH OR OTHER REASONS Following the effective date of this probation, if respondent  
15 ceases practicing or performing physical therapy due to retirement, health or other reasons or is  
16 otherwise unable to satisfy the terms and conditions of probation, respondent may request to  
17 surrender his license to the Board. The Board reserves the right to evaluate the respondent's  
18 request and to exercise its discretion whether to grant the request or to take any other action  
19 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the  
20 tendered license, the terms and conditions of probation shall be tolled until such time as the  
21 license is no longer renewable, the respondent makes application for the renewal of the tendered  
22 license or makes application for a new license.

23           24.     COMPLETION OF PROBATION Upon successful completion of  
24 probation, respondent's license shall be fully restored.

25           25.     CALIFORNIA LAW EXAMINATION - WRITTEN EXAM ON THE  
26 LAWS AND REGULATIONS GOVERNING THE PRACTICE OR PERFORMANCE OF  
27 PHYSICAL THERAPY Within 90 days of the effective date of this decision, Respondent shall  
28 take and pass the Board's written examination on the laws and regulations governing the practice



of physical therapy in California. If Respondent fails to pass the examination, Respondent shall be suspended from the practice of physical therapy until a repeat examination has been successfully passed.

26. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE ON PROBATION It is not contrary to the public interest for the Respondent to practice and/or

ON PROBATION It is not contrary to the public interest for the Respondent to practice and/or perform physical therapy under the probationary conditions specified in the disciplinary order.

Accordingly, it is not the intent of the Board that this order, the fact that the Respondent has been disciplined, or that the Respondent is on probation, shall be used as the sole basis for any third party payer to remove Respondent from any list of approved providers.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert D. Harding, Esq. I understand the stipulation and the effect it will have on my Physical Therapist license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: July 8, 2008 .

Original Signed By: EZEQUIEL A. MARZOCCHETTI  
Respondent

I have read and fully discussed with Respondent Ezequiel A. Marzocchetti the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: July 2008

Original Signed By:  
ROBERT D. HARDING, ESQ.  
Attorney for Respondent

///

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: September 22, 2008.

EDMUND G. BROWN JR., Attorney General  
of the State of California

Original Signed By:  
CHRIS LEONG  
Deputy Attorney General

Attorneys for Complainant

**Exhibit A**

**Accusation No. 1D 2005 64366**

**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

EZEQUIEL A. MARZOCCHETTI, P.T.

Respondent.

Case No. 1D 2005 64366

OAH No. 2008040487

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 24, 2008.

**IT IS SO ORDERED** November 24, 2008.

Original Signed By:

FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
NANCY KRUEGER, PT, PRESIDENTS